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CLERK

U.S. DISTRICT COURT

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Central DIVISION

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APR 03 2023

U.S. DISTRICT COURT

Oliver Missbach
 (Full Name)

PLAINTIFF

vs.

Utah State hospitalDr. Kevin Holmes

DEFENDANTS

CIVIL RIGHTS COMPLAINT

(42 U.S.C §1983, §1985)

CIVIL NO. _____
 (Supplied by Clerk)

Case: 2:23-cv-00217

Assigned To : Nielson, Howard C., Jr

Assign. Date : 4/4/2023

Description: Missbach v. Utah State Hospital et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

- a. ☒ 42 U.S.C. §1983
 b. ☐ 42 U.S.C. §1985
 c. ☐ Other (Please Specify) _____

2. NAME OF PLAINTIFF Oliver Missbach
 IS A CITIZEN OF THE STATE OF Utah

PRESENT MAILING ADDRESS: 1300 East Center Street
Provo, Utah 84606

3. NAME OF FIRST DEFENDANT Utah State hospital
IS A CITIZEN OF Provo Utah
(City and State)

IS EMPLOYED AS Utah state hospital at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐ If your answer is "YES" briefly explain.

The Utah state hospital was and is
exercising custody since November 2019 and
is still exercising custody to present.

4. NAME OF SECOND DEFENDANT Kevin Holmes
(If applicable)

IS A CITIZEN OF _____
(City and State)

IS EMPLOYED AS a Doctor at Utah state hospital
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☒ NO ☐ If your answer is "YES" briefly explain.

As a hospital employee, he was in
charge of my medical care

5. NAME OF THIRD DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(City and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☐ NO ☐ If your answer is "YES" briefly explain.

6. NAME OF FOURTH DEFENDANT _____
(If applicable)

IS A CITIZEN OF _____
(city and State)

IS EMPLOYED AS _____ at _____.
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES ☐ NO ☐ If your answer is "YES" briefly explain.

(Use additional sheets of paper if necessary.)

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

As a person in the custody of the Utah state hospital I am entitled to receive adequate medical care. This has been denied me.

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

a. (1) **Count I:** Necessary medication to treat
my condition have been denied.

(2) **Supporting Facts:** (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)

The doctor has knowingly and
intentionally inflicted emotional and
mental distress and suffering on my
persons. He is aware of other
beneficial medications and refuses
to administer them.

b. (1) **Count II:** _____

(2) **Supporting Facts:** _____

c. (1) **Count III:** _____

(2) Supporting Facts: _____

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

I continue to languish at the Utah
state hospital, suffer mental stress and
emotional stress and significant, very
significant mental suffering.

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment?
YES ☐ / NO ☐. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

a. Parties to previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

b. Name of court and case or docket number: _____

- c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) _____
- d. Issues raised: _____

- e. When did you file the lawsuit? _____
Date Month Year
- f. When was it (will it be) decided? _____
2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES ☐ / NO ☐. If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.
I have complained to the administration
to my case worker and patient advocate, and
have written many complaint forms to the
administration and nothing has been done,


F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:
to receive the appropriate medications
and dosages.

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C §1621.

Executed at Provo, Utah on 3-16 2023.
(Location) (Date)


Signature